

Ontario
Human Rights
Commission

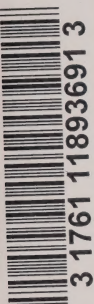
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PROTECTING

RELIGIOUS RIGHTS

PROTECTING RELIGIOUS RIGHTS

This publication tells you how the Ontario Human Rights Commission protects “creed” or religion on the job, in schools and in other areas of everyday life.

WHAT IS THE HUMAN RIGHTS CODE?

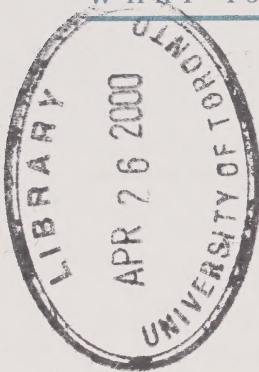
The Ontario *Human Rights Code* is a law that protects your right to equal rights and opportunities without discrimination. The *Code* encourages people to feel a part of the community and feel able to contribute to the community.

The *Code* deals with discrimination in:

- Your job, including applying for a job, job interviews, promotions, office dress codes, days off and shift schedules.
- Schools, shops, restaurants and hospitals.
- Your home, whether you rent an apartment, or live in a college residence or a condominium. Hotels and motels are also covered.
- Contracts, such as verbal or written agreements.
- Membership in unions or professional associations.

The *Code* protects your right to equal treatment in your religion, and this includes special beliefs, practices and observances that are part of your faith. It also protects people who have no religion or creed against persecution or harassment.

WHAT IS CREED?



“Creed” means a religion or faith. It includes the practices, beliefs and observances that are part of a religion. It does not include personal moral, ethical or political views.

Religions that promote violence or hatred towards others, or that violate criminal law are not protected by the *Code*.

WHAT IS DISCRIMINATION?

Discrimination means that someone is treating you unfairly because of your religion. It can mean that you are treated unequally because of your beliefs or religious practices, or because you do not share the same belief as someone else.

Example: An employer does not hire you because you do not share the same religion. Even though you may be the most qualified applicant for the

job, you were screened out because of your religion. This is illegal unless the employer is a special service organization that serves only people of a particular religious group.

Example: A landlord prefers to rent to tenants whose religion is the same as his own. This landlord asks tenants to sublet only to people of the same religion as the landlord. This is unequal treatment because of religion.

Someone may be harassing you if the person insults or jokes about your religious beliefs. Harassment occurs when the person knows or should know that you do not welcome the behaviour. Normally, harassment means that there has been a pattern of offensive behavior, although a single serious incident may be enough.

Example: You are at work and your fellow worker makes ongoing jokes about your religious beliefs or says that your religion is inferior. Others join in and your manager tells you not to worry and “take the joke”. This is a form of harassment. You have the right to complain to the Ontario Human Rights Commission.

A workplace or school may have rules that make it hard for you to observe your religion. These rules may include things like dress codes, policies on how long breaks have to be or having to work on days that are holy days in your own religion.

Example: An employer has a rule for a dress code. Everyone must wear a certain type of uniform. Men may have to be clean-shaven. Or there may be a “no hats or head covering” rule. These rules create problems for people whose religions require them to wear a head covering, such as a turban.

what to do

- While you are applying for a job, you are not obliged to tell anyone what your religion is.
- There are exceptions for special types of jobs in community groups, special schools or religious organizations. If you are unsure, call the Commission.
- On the job, tell your supervisor or boss that your religion has practices and observances that you need to follow in order to respect your faith.
- In school, tell the teacher or principal that you and your child have special religious needs, and explain them so that the other person understands and can assist you.

- It is best to provide your request in writing, and give the other person a reasonable time to reply.
- Be flexible about considering reasonable alternatives.
- If you are told that your request cannot be met because “it would be too expensive”, or if there are safety or health issues, you are entitled to ask for details.

dress codes

Workplaces, services and facilities often have rules about what you can wear. These rules may conflict with your religious dress requirements. If they do, there is a duty on the employer to meet your special needs, unless this would create undue hardship because of cost, or health and safety reasons.

Example: A school requires students to wear a uniform that doesn't allow girls to cover their heads. A Muslim student covers her head with a scarf because of her religious beliefs. The school has the duty to let her wear the head covering.

break policies

Example: Some religions require prayer at certain times of day. This might interfere with your work hours. An employer has the duty to find a way that will help you to pray when you need to. Modified break policies and work hours are good ways of helping you to meet both your religious requirements and satisfy your employer. Providing a private area for prayer is also important.

**applying
for a job**

It is **illegal** for an employer to ask questions about your religion before you reach the interview stage (for example on an application form).

Once you are hired, it is your responsibility to provide your employer with information about any of your religious requirements and to ask for your special religious needs to be met.

It should be noted that separate schools (Roman Catholic schools in Ontario) have special constitutional rights. These rights are not affected by the *Code*. For example, they may prefer to hire teachers of the same denomination for certain subjects.

**holidays
and
religious
leave**

There are some days when your religion says that you cannot work or go to school.

At work, you are entitled to ask for *at least* two religious leave days off and to be paid for them. You are entitled to these days off without having to dip into your vacation. If you work in a unionized workplace where Easter Monday is a day off for unionized employees, then your employer should grant at least three religious days off per year. Here are some common questions and answers that we are asked on this subject.

Q: Why do you say that employers should give two or three days off? Where does this come from?

A: The *Code* prohibits unequal treatment. Right now in Ontario, the *Employment Standards Act*

makes two Christian holidays (Christmas Day and Good Friday) statutory holidays. Similar treatment should be given to persons who are not Christian but whose religion prevents them from working on a holy day.

Q: Why can't these two or three days come out of a person's vacation?

A: Because it would not be fair. Christians get Christmas Day off and Good Friday off and they do not have it taken out of their vacation days.

Q: So what kinds of days off should be used for these two or three days?

A: It depends on the workplace and the terms of any collective agreements that may be in place. Some workplaces use compassionate leave days or floating days off. Others use discretionary days approved by a manager.

Q: What if the employee wants more than two days or three days off?

A: Again, it depends on the workplace and the circumstances. Over and above the two (or three) days, some workplaces allow staff to use vacation time. Others grant paid leave on a discretionary basis. Others grant leave without pay.

ACCOMMODATION: WHAT MUST YOUR EMPLOYER DO?

Your employer must “accommodate” you, that is, provide you with special measures to help you observe your religious requirements, up to the point of undue hardship. Undue hardship is a standard that takes into account costs and health and safety concerns. These must be shown to be “undue” or excessive in order to justify a refusal.

Simply stating that it is too hard or expensive to meet your needs, without giving details, is not enough.

HOW TO GET MORE INFORMATION

For more detailed information, the Commission has prepared a detailed policy document called *Creed and the Accommodation of Religious Observances*. It is available free of charge from the Commission.

Ontario Human Rights Commission
180 Dundas Street West, 8th Floor
Toronto ON M7A 2R9
Tel: (416) 326-9511
Toll Free: 1-800-387-9080
TTY (Local): (416) 314-6526
TTY (Toll Free): 1-800-308-5561
Web site: <http://www.ohrc.on.ca>
E-Mail: regional@ohrc.on.ca

IF A HUMAN RIGHTS COMPLAINT IS MADE AGAINST YOU

1. If the Commission receives a complaint against you, Commission staff will contact you to discuss the matter.
2. Commission staff will explain how the *Code* applies to the situation and how the complaint procedure works. Commission staff will work with you and the person making the complaint to try and resolve the concerns. The Commission also offers mediation services.
3. If the concerns cannot be resolved and mediation is not successful, the complaint may proceed to the investigation stage.
4. You can ask the Commission not to deal with the complaint under section 34 of the *Code* if:
 - a) another Ontario law would be better suited to deal with the situation, such as the *Labour Relations Act*;
 - b) you believe that the person making the complaint has no reasonable basis to support a claim of discrimination, or that the complaint is in bad faith, or that a remedy has already been obtained by the complainant somewhere else;
 - c) the matter is outside the Commission's legal authority;

- d) the person making the complaint waited longer than 6 months from the last incident of discrimination to file a complaint.
5. The Commission is neutral and does not take sides in the complaint. Commission staff will assist you with questions about the complaint procedure. However, if you require legal representation or advice, please contact a lawyer.

IF YOU HAVE A HUMAN RIGHTS COMPLAINT

1. If you have a human rights complaint, you may contact the general inquiries line at 1-800-387-9080 (TTY: 1-800-308-5561) or in Toronto at (416) 326-9511 (TTY: (416) 314-6526) from Monday to Friday during office hours. A Commission staff person will tell you if your concerns are covered by the Ontario *Human Rights Code* (the “Code”).
2. Commission staff will explain how the *Code* applies to your situation and how the complaint procedure works. Commission staff will work with you and the other party to resolve the concerns. The Commission also offers mediation services.
3. If you want the Commission to address your concerns, you should file a complaint within 6 months from the last incident of discrimination. This time limit is set out in section 34 of the *Code*.

4. "Filing a complaint" means that you have requested the Commission's complaint form and provided all requested details. You must have signed, dated and returned the form to the Commission.
5. When you file a complaint, Commission staff will work with you and the person/company you have filed against to try and resolve the complaint through mediation.
6. The Commission may consider not to deal with a complaint under section 34 if:
 - a) another Ontario law would be better suited to deal with the situation, such as the *Labour Relations Act*;
 - b) you have no reasonable basis to support a claim of discrimination, or that you have made the complaint in bad faith, or that you have already obtained a remedy somewhere else;
 - c) the matter is outside the Commission's legal authority;
 - d) you have waited longer than 6 months from the last incident of discrimination to file a complaint.
7. The Commission is neutral and does not take sides in the complaint. Commission staff will assist you with questions about the complaint procedure. However, if you require legal advice, please contact a lawyer.



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